

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

JOSEPH ANTONETTI, ) 3:10-cv-00158-ECR-WGC  
)  
Plaintiff, ) MINUTES OF THE COURT  
)  
vs. ) DATE: August 16, 2012  
)  
HOWARD SKOLNIK, et al., )  
)  
Defendant(s). )  
\_\_\_\_\_ )

PRESENT: \_\_\_\_\_ EDWARD C. REED, JR. \_\_\_\_\_ U. S. DISTRICT JUDGE

Judicial Assistant: \_\_\_\_\_ Candace Knab \_\_\_\_\_ Reporter: \_\_\_\_\_ NONE APPEARING

Counsel for Plaintiff(s) \_\_\_\_\_ NONE APPEARING

Counsel for Defendant(s) \_\_\_\_\_ NONE APPEARING

MINUTE ORDER IN CHAMBERS

On July 17, 2012, the Magistrate Judge filed a Report and Recommendation (#53) recommending that Defendants' Motion for Partial Dismissal (#40), filed on November 14, 2011, be granted in part and denied in part. Plaintiff filed Objections (#56) on July 26, 2012.

The Objections are not well-taken and the Magistrate Judge shall be affirmed. The Court agrees with the Magistrate Judge that, after applying the factors set forth by the Ninth Circuit in Constantini v. Trans World Airlines, 681 F.2d 1099, 1201-02 (9th Cir. 1982), Counts 1, 4, 7, 12, 13, 15, 16, and 17 involve the same claims that Plaintiff previously raised in Antonetti v. Neven, et al., 2:08-cv-01020-KJD (VCF). These counts must therefore be dismissed with prejudice as to Defendants Baca, Cox, Henson, Kuloloia, Neven, Skolnik, and Walker, who were defendants in the previous case. However, the action will proceed against Defendants Clarkson, Cool, Hendley, Liverani, Loan, and Morrow. The Court further agrees that Count 3, an Eighth Amendment conditions of confinement/personal hygiene claim, was not raised in the earlier action and should therefore proceed.

**IT IS, THEREFORE, HEREBY ORDERED** that the Magistrate Judge's Report and Recommendation (#53) is well taken and is **APPROVED** and **ADOPTED**.

**IT IS FURTHER ORDERED** that Defendants' Motion for Partial Dismissal (#40) is **GRANTED** in part and **DENIED** in part. Counts 1, 4, 7, 12, 13, 15, 16, and 17 are **DISMISSED WITH PREJUDICE** as to Defendants Baca, Cox, Henson, Kuloloia, Neven, Skolnik, and Walker.

LANCE S. WILSON, CLERK

By /s/  
Deputy Clerk